



COMMUNITY DEVELOPMENT DEPARTMENT

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File No. LU-16-057

**STAFF REPORT
 TO THE PLANNING COMMISSION**

PROPOSED ACTION:	<p>Amendments to the floodplain requirements for land use.</p> <p>(A) The Floodplain Management Overlay zone on the Benton County Zoning Map would be amended to conform to new Flood Insurance Rate Map panels and a Letter of Map Revision prepared by the Federal Emergency Management Agency</p> <p>(B) Portions of the Chapter 83 of the Development Code would be amended for the purpose of making corrections and clarifications</p>
APPLICABLE CRITERIA:	<p>Benton County Code Sections 53.505 through 53.625; Benton County Comprehensive Plan Section 7.2 (Floodplain)</p>
AFFECTED PROPERTIES:	<p>(A) The map amendments would affect county properties in the North Albany area and two county properties near the intersection of 35th Street & Western Boulevard in Corvallis.</p> <p>(B) General text amendments would affect procedures for land use throughout the Floodplain Management Overlay zone in Benton County.</p>
HEARING DATE:	<p>October 4, 2016</p>
STAFF CONTACT:	<p>Toby Lewis</p>

I. STAFF CONCLUSIONS AND RECOMMENDATION

Staff concludes that the proposed amendments are consistent with the applicable provisions of the Benton County Code and the Benton County Comprehensive Plan. Staff recommends that the Planning Commission vote to recommend adoption by the Board of Commissioners.

Attachments:

The draft Amendments to Development Code Chapter 83 are included as Attachment A.

The revised Flood Insurance Rate Maps (FIRM) are not attached to this report but they can be viewed prior to the hearing using the web address and steps included on page 2 of the Notice of Public Hearing mailed on September 20, 2016. Paper copies of the revised FIRM panels and Letter of Map Revision will also be available for review at the hearing.

II. BACKGROUND

On June 2015 the Federal Emergency Management Agency (FEMA) provided Benton County with five revised panels for the county's Flood Insurance Rate Maps (FIRMs). The revisions to these panels are based on additional study information regarding the behavior and elevation of water through the Thornton Lakes System and along the Willamette River during a base flood¹ event. The study area includes a large portion of the North Albany area including as far west as the vicinity of the intersection of US Highway 20 and Scenic Drive and as far north as Springhill Road north of the Springhill Golf Course. Additional details regarding the circumstances and revision process relating to the North Albany Flood Study are included in Section IV below.

Because FEMA has issued a Letter of Final Determination for the revised FIRM panels, it is now Benton County's responsibility to incorporate the revisions into the Development Code and Zoning Map and to use them, beginning December 8, 2016, for regulation of floodplain development in the county. In light of the need to adopt the revised panels, staff has taken this opportunity to include an approved Letter of Map Revision as well as some needed corrections and procedure clarifications within the text of the Floodplain Management Overlay chapter of the Benton County Development Code.

While the majority of the changes are minor corrections, there are two larger changes that are proposed primarily to clarify the procedures for complying with certain aspects of the floodplain development code. A summary of the amendments to Chapter 83 is listed in Section V below.

III. COMMENTS

Two phone inquiries were received prior to the preparation of this staff report. In both instances, the callers requested additional information regarding the areas affected by the map revisions and the expected content of the proposed code revisions. No further communication from either caller was received.

No comments regarding the map and code revisions had been received as of the date of preparation of this staff report.

IV. PROPOSED MAP AMENDMENTS²

North Albany Flood Insurance Rate Map Panel Revisions:

On June 8, 2016, the Federal Emergency Management Agency (FEMA) issued a Letter of Final Determination stating that the five revised Flood Insurance Rater Map (FIRM) panels for the

¹ The *base flood* is commonly referred to a *100-year flood*, which is also the same as the *1% annual chance flood*. The term *base flood* will be used throughout this staff report because the term *100-year flood* is misleading (people often believe that it refers to a flood event that occurs only once every 100 years rather than a flood event that has a 1% chance of occurring at any given time) and the term *1% annual chance flood* is cumbersome and often distracts from the content that is being discussed.

² The revised Flood Insurance Rate Maps (FIRM) are not attached to this report but they can be viewed prior to the hearing using the web address and steps included on page 2 of the Notice of Public Hearing mailed on September 20, 2016. Paper copies of the revised FIRM panels and Letter of Map Revision will also be available for review at the hearing.

North Albany area will become effective on December 8, 2016. As such, the revised panels are required to be adopted by affected communities by the effective date.

The process leading up to the Letter of Final Determination issuance was initially started by the City of Albany in 2010. At that time, the city was concerned that the Flood Insurance Rate Maps in effect did not accurately reflect the flooding patterns and depths that would occur during a base flood event. This concern was based on aerial imagery of historic flood events that were determined to be close to base flood events and new flood study information being submitted for prospective development projects in the North Albany area. Of particular concern was the possibility of an unmapped floodway through the Thornton Lakes System. The city chose to hire a consultant to prepare a flood study for the North Albany area help resolve the discrepancies between the FIRM panels and the historic and new flood information.

The flood study prepared for the North Albany area found that the city's concerns were correct: the Thornton Lakes System does have floodways that are not identified on the FIRM panels issued by FEMA and, in addition to that, the flood depths and flood locations were found to be inaccurate as well. Approximately 100 acres of land was mapped as being within the Special Flood Hazard Area (SFHA) that shouldn't be and approximately the same amount was mapped as being outside of the SFHA that should be. The study also found that some areas had Base Flood Elevations (BFEs) identified as more than 4 feet higher than they should be and some areas had BFEs identified as up to 2 feet lower than they should be.³

The results of the North Albany Flood Study were submitted to FEMA through the Letter of Map Revision (LOMR) process but, because the study affected more five FIRM panels, the application was changed to a Physical Map Revision (PMR). As part of the map revision and outreach process, the City of Albany held a public information night in 2011 and invited all property owners, both city and county, affected by the proposed FIRM revisions. At the meeting, city staff explained the reasons for the flood study, explained the study findings and how they might affect flood insurance costs, and provided information about flood insurance policies and options. Staff from the consulting firm that created the flood study, county staff, and an insurance agent who specializes in flood insurance policies, and additional city staff who could print out maps showing the flood revisions were also available at the meeting to discuss property-specific questions with people after the initial presentation.

Over the next few years, the PMR process involved review between FEMA, the consultant, and city staff. Because the flood study also affected county properties, the city invited county staff to participate in the entire process. In January 2015, the city authorized \$100,000 in funding to provide elevation certificates for structures within the flood study area that would be negatively impacted by the findings of the study.⁴ In February 2015, the city again hosted a community meeting North Albany area residents to update them of the changes and expected timeline for completion of the map revisions, provide an opportunity for property-specific discussions,

³ More detailed information about the flood study, reasons for the study, etc. are available on the City of Albany's website at: <https://www.cityofalbany.net/departments/public-works/engineering/north-albany-floodplain-study>.

⁴ The funding for elevation certificate preparation was available until the close of FEMA's 90-day appeal period. According to a recent conversation with city staff, approximately half of the property owners who likely qualified for the free elevation certificates requested them.

provide information about the elevation certificate program, and provide access to flood insurance information. In June 2015, FEMA notified the city and county that preliminary FIRM panels would be provided. The 90-day appeal period for review of the preliminary FIRM panels began on July 15, 2015 and ended October 13, 2015. The final step in the FEMA review process occurred with the issuance of the LFD on June 8, 2016.

Oak Creek Letter of Map Revision:

Because the Oak Creek Letter of Map Revision (LOMR) affected only a portion of a single FIRM panel, it was not processed as a Physical Map Revision and, therefore, there is no requirement by FEMA to formally adopt it. However, although the LOMR affects only two county properties, staff felt that the revisions to this portion of the Oak Creek Special Flood Hazard Area were substantial enough to warrant identifying the LOMR specifically in the text of the Floodplain Management Overlay chapter of the Development Code.

The Oak Creek study was prepared in 2014 in conjunction with a nearby development proposal (now known as The Retreat) by a private consultant and became effective on July 14, 2014. The study found that the Special Flood Hazard Area for this section of Oak Creek was incorrectly mapped and should be significantly wider as it passes through a field at the northeast corner of 35th Street and Western Boulevard and significantly narrower as it continues on from the west side of 35th Street to the north side of the railroad tracks.

V. PROPOSED TEXT AMENDMENTS

The following is a summary of the amendments to Chapter 83 (Floodplain Management Overlay). The full text of the amendments is contained in Attachment A.

Summary of Changes:

- BCC 83.010(1) – Incorporation of the revised Flood Insurance Rate Map panels and Letter of Map Revision into the chapter. This is required by FEMA in order for Benton County residents to continue to be eligible for federal flood insurance.
- BCC 83.205(1) – Clarification of method for documenting that a proposed project will not result in any increase in flood levels during a base flood event. This will make clear what the evaluation process is for certain development proposals, and by having FEMA review them, will ensure consistent and expert evaluation.
- BCC 83.605(2)(b) – Clarification of the method for providing documentation and review process to determine whether or not newly created parcels will have adequate access by standard emergency vehicles during a base flood event. This will create a more certain and reliable process for review by fire agencies, ensuring that the intent of this code provision is carried through.
- BCC 83.010(2) & (3) – Removal of outdated language regarding the 0.2-foot floodway identified within the Corvallis Urban Fringe. This is a redundant provision now, because the recently adopted flood maps for the Corvallis area utilize the 0.2-foot floodway.
- BCC 83.010(3)(b)(C) – Correction of the term *Letter of Map Revision*

- BCC 83.210(1) – Correction of when a Post-Construction Elevation Certificate is required to be submitted
- BCC 83.310(2) – Spelling correction
- BCC 83.605(2) – Clarification of what is meant by the term *non-residential*, as used in this section

VI. FINDINGS APPLYING CODE CRITERIA

Development Code Provisions for Zone Change:

The Official Zoning Map may be amended if:

BCC 53.505(1). *The proposed zoning for the property is more appropriate than the current zoning, when considering existing uses, changes in circumstances since the current zoning was applied, or information that indicates that the current zoning was not properly applied.*

Findings: As explained in Section IV above, the revised Benton County Flood Insurance Rate Map panels issued by the Federal Emergency Management Agency are based on more accurate flood studies of the Thornton Lakes System, Willamette River, and Oak Creek floodplains, which incorporate current development conditions within these floodplains and result in increased accuracy of base flood elevations and flood hazard boundary locations.

Conclusion: The proposed revisions to the Floodplain Management Overlay zone are more appropriate than the current location of this overlay zone.

BCC 53.505(2). *The impact on adjacent properties will be minimal.*

Findings: The intent in establishing a Floodplain Management Overlay zone is to ensure that development in this area is performed in a manner that reduces property and structural damage during flood events; thereby minimizing the impacts of such development on adjacent properties.

Conclusion: Adoption of the revised Flood Insurance Rate Map panels will allow Benton County to continue working towards minimizing structural and property damage as a result of flood events in the county. Properties outside the proposed revised Special Flood Hazard Area will not be affected by the change to the Zoning Map.

BCC 53.505(3). *Any significant increase in the level of public services which would be demanded as a result of the proposed zone change can be made available to the area.*

Findings: It is not expected that the proposed revisions to the Special Flood Hazard Area will cause any increase in the demand for public services to properties located in this zone.

Conclusion: No increase in the level of public services is expected as a result of the proposed adoption of the revised Flood Insurance Rate Map panels prepared by FEMA.

Development Code Provisions for Text Amendments:

BCC 53.605. *On occasion, it may be appropriate to amend sections of the Comprehensive Plan or Development Code to respond to changing policies and conditions, or to clarify text.*

Findings: The proposed code amendments are intended to correct and clarify existing code language, improving the public's understanding of documentation requirements concerning development within the floodplain.

Conclusion: Text clarifications are needed to better inform applicants and the public. The proposed amendments meet the general criteria for consideration.

Process for Zoning Map and Development Code Text Amendments:

BCC 53.510(2). The Board of County Commissioners may initiate a zone change. The Board shall direct the Planning Official to prepare maps, drawings, data, and other information supporting the zone change.

BCC 53.610(1). The Board of County Commissioners may initiate an amendment to this code. The Board shall direct the Planning Official to prepare a background report discussing the justification for the proposed amendment.

Findings: On September 20, 2016, the Board of Commissioners reviewed background information from staff, discussed the matter, and voted to initiate the amendments.

Conclusion: The proposed amendments were properly initiated.

BCC 53.520. The Planning Commission shall conduct a public hearing to review a proposed zone change. Following the close of the public hearing, the Planning Commission shall make a recommendation to the Board of Commissioners to approve, deny, or modify the proposed zone change. The commission shall include findings in support of its recommendation.

BCC 53.620. The Planning Commission shall conduct a public hearing to review a proposed text amendment. Following the public hearing, the Planning Commission shall make a recommendation to the Board to approve, deny, or modify the proposed amendment.

Findings: The Planning Commission will conduct a hearing on October 4, 2016, and will forward a recommendation to the Board of Commissioners. Findings in support of the Planning Commission's decision will be included in the recommendation to the Board of Commissioners.

Conclusion: The scheduled hearing will comply with the procedure stipulated in the above code sections.

BCC 53.525. The Board of County Commissioners shall conduct a public hearing to review a proposed zone change. The Board may approve, modify, or deny the proposed zone change. The Board shall include findings in support of its decision. If the Board approves the zone change, the Board shall amend the Official Zoning Map by ordinance pursuant to the provisions of the Benton County Charter.

BCC 53.625. The Board of County Commissioners shall hold a public hearing to review a proposed text amendment. The Board may accept, reject, or modify the proposed text amendment in whole or in part. Incorporation of any text amendment into the Development Code shall proceed pursuant to the Ordinance adoption provisions of the Benton County Charter.

Findings: The Board of Commissioners will conduct a hearing on October 18, 2016 to consider the proposed map and text amendments and the recommendation of the Planning Commission. Findings supporting the Board’s decision will be included in the Ordinance.

Conclusion: The scheduled hearing will comply with the procedure stipulated in the above code sections.

VII. APPLICABLE COMPREHENSIVE PLAN POLICIES

Staff has identified the following Comprehensive Plan policies as relevant to the proposed code amendments:

Floodplain

7.2.1 *Benton County’s floodplain management policies and actions will continue to emphasize more preventive than corrective measures. Flood damage prevention methods shall be non-structural to the degree possible, and include a combination of land use and code regulations, non-regulatory practices such as incentives, and a comprehensive emergency preparedness program.*

Findings: Benton County floodplain management regulations continue to emphasize more preventive than corrective measures. The proposed code amendments will not alter current the balance between preventive and corrective measures for floodplain management.

7.2.2 *Benton County shall allow accessory structures to be constructed within the floodplain; however, new primary structures shall not be allowed within the floodplain unless a parcel has insufficient buildable land outside the floodplain. Accessory structures shall not be located in the floodway.*

Findings: This issue is already addressed in the current floodplain code and will not be altered by any of the proposed code revisions.

7.2.3 *Benton County shall only allow land divisions within the floodplain when it can be demonstrated that each buildable lot or parcel has a suitable site for development outside of the floodplain boundary. Non-residential uses shall be excepted.*

Findings: The proposed code amendments, in Section 83.605(2), clarify the method for providing adequate documentation to evaluate land division proposals for compliance with the standards that implement this policy.

7.2.8 *Benton County shall take measures to assure that wetland mitigation does not compromise existing stormwater functions of the land being used for the mitigation.*

Findings: Any wetland mitigation that proposed to be located within a Special Flood Hazard Area requires land use review pursuant to the provisions regulating land development activities in a floodplain. This issue is already addressed in the current floodplain code and will not be altered by any of the proposed code revisions.

7.2.10 Benton County shall restrict development for human occupancy in those areas where access by standard emergency vehicles such as fire or ambulance is prevented by flood waters of 100-year flood levels.

Findings: The proposed code amendments, in Section 83.605(2), clarify the method for providing adequate documentation to evaluate land division proposals for compliance with the standards that implement this policy.

Conclusion Regarding Comprehensive Plan Policies: The proposed amendments to the Floodplain Management Overlay chapter of the Development Code will be consistent with the applicable Comprehensive Plan policies.

VIII. CONCLUSIONS AND RECOMMENDATIONS

Staff concludes that the proposed amendments are consistent with the applicable provisions of the Benton County Code and the Benton County Comprehensive Plan. Based on the findings presented above, staff recommends that the Planning Commission vote to: ***Recommend that the Board of Commissioners: (a) adopt the 2016 Flood Insurance Rate Map revisions issued by the Federal Emergency Management Agency and amend the Floodplain Management Overlay zone on the Benton County Zoning Map to reflect the revised panels, and (b) adopt the proposed text amendments to the Development Code as contained in Attachment A.***

IX. MOTIONS

- A. “Based on the information presented in the staff report and evidence received at the public hearing, I move that the Planning Commission **recommend that the Board of Commissioners (a) adopt** the adopt the 2016 Flood Insurance Rate Map revisions issued by the Federal Emergency Management Agency and amend the Floodplain Management Overlay zone on the Benton County Zoning Map to reflect the revised panels, and **(b) adopt** the proposed text amendments to the Development Code **as contained in Attachment A.**”

or,

- B. “Based on the information presented in the staff report and evidence received at the public hearing, I move that the Planning Commission **recommend that the Board of Commissioners (a) adopt** the 2016 Flood Insurance Rate Map revisions issued by the Federal Emergency Management Agency and amend the Floodplain Management Overlay zone on the Benton County Zoning Map to reflect the revised panels, and **(b) adopt** the proposed text amendments to the Development Code contained in Attachment A, **as modified at the hearing.**”